

# EXHIBIT B

1 UNITED STATES BANKRUPTCY COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 - - - - - x

4 In Re: CHAPTER 11  
5 LEHMAN BROTHERS HOLDINGS, INC., CASE NO. 08-13555(SCC)  
6 ET AL, (Jointly Administered)  
7 Debtors.

8 - - - - - x

9 In Re:  
10 LEHMAN BROTHERS, INC., CASE NO.  
11 Debtor. 08-08-1420(SCC) (SIPA)

12 - - - - - x

13 U.S. Bankruptcy Court  
14 One Bowling Green  
15 New York, New York

16  
17 June 19, 2014  
18 10:06 AM

19  
20 B E F O R E :  
21 HON. SHELLY C. CHAPMAN  
22 U.S. BANKRUPTCY JUDGE

23  
24  
25 ECRO - MARIA R. and FRANCES FERGUSON

1 HEARING Re Trustee's Motion for an Order pursuant to  
2 Sections 105(a), 502(a), 502(c) and 726 of the Bankruptcy  
3 Code and Bankruptcy Rule 3009 (I) Establishing a final  
4 reserve for secured, administrative and priority claims,  
5 (II) Allowing certain secured, administrative and priority  
6 claims, (III) Authorizing the trustee to satisfy allowed  
7 secured, administrative and priority claims, and related  
8 relief (LBI ECF No. 8885)

9  
10 HEARING Re Fifteenth Application of Hughes Hubbard & Reed  
11 LLP for allowance of interim compensation for services  
12 rendered and reimbursement of actual and necessary expenses  
13 incurred from December 1, 2013 through March 31, 2014 (LBI  
14 ECF No. 9004)

15  
16 HEARING Re Joint notice of presentment of Seventh amended  
17 order pursuant to Section 78eee(b)(5) of SIPA, Sections 105,  
18 330 and 331 of the Bankruptcy Code, Bankruptcy Rule 2016(a)  
19 and Local Bankruptcy Rule 2016-1 establishing procedures  
20 governing interim monthly compensation of trustee and Hughes  
21 Hubbard & Reed LLP (LBI ECF No. 9003)

1 HEARING Re Trustee's Two Hundred Tenth Omnibus Objection to  
2 general creditor claims (no liability claims) (LBI ECF No.  
3 8284)

4  
5 HEARING Re Motion for alternative dispute resolution  
6 procedures order for indemnification claims of the debtors  
7 against mortgage loan sellers (ECF No. 44450)

8  
9 HEARING Re Two Hundred Fifth-Fourth Omnibus Objection to  
10 Claims (ECF No. 25059)

11  
12 HEARING Re Stonehill's Motion to re-file proofs of claim to  
13 fix previously unliquidated claim amounts or alternatively  
14 for leave to file amended claims (ECF No. 43988)

15  
16 HEARING Re Plan administrator's objection to proof of claim  
17 No. 33514 filed by Frank Tolin, Jr. (ECF No. 37839)

18  
19 HEARING Re Lehman Brothers Special Financing, Inc. v Federal  
20 Home Loan Bank of Cincinnati (Adversary proceeding No. 13-  
21 01330), Pre-Trial conference

22  
23  
24  
25 TRANSCRIPTIONISTS: SHEILA ORMS AND SHERRI BREACH

1 A P P E A R A N C E S:

2

3 DECHERT LLP

4 Attorneys for (Unknown)  
5 1095 Avenue of the Americas  
6 New York, NY 10036

7

8 BY: ALLAN S. BRILLIANT, ESQ.

9 SHMUEL VASER, ESQ.

10

11 LAW OFFICES OF

12 Attorneys for Heidi Steiger, Steiger Associates  
13 51 East 42nd Street  
14 11th Floor  
15 New York, NY 10017

16

17 BY: DONALD E. WATNICK, ESQ.

18

19 JONES & KELLER

20 Attorneys for LBHI  
21 1999 Broadway  
22 Suite 3150  
23 Denver, CO 80202

24

25 BY: MICHAEL A. ROLLIN, ESQ.

1 WEIL, GOTSHAL & MANGES, LLP

2 Attorneys for LBHI

3 767 Fifth Avenue

4 New York, NY 10153

5

6 BY: GARRETT A. FAIL, ESQ.

7

8 WEIL, GOTSHAL & MANGES, LLP

9 Attorneys for LBHI

10 1300 Eye Street, N.W.

11 Suite 800

12 Washington, D.C. 20005

13

14 BY: RALPH I. MILLER, ESQ.

15

16 PROSKAUER ROSE LLP

17 Attorneys for Federal Home Loan Bank of Cincinnati

18 Eleven Times Square

19 New York, NY 10036

20

21 BY: MARTIN J. BIENENSTOCK, ESQ.

22 STEVE RATNER, ESQ.

23 PHIL ABELSON, ESQ.

24

25

1 JONES DAY

2 Attorneys for Debtors

3 222 East 41st Street

4 New York, NY 10017

5

6 BY: JAYANT W. TAMBE, ESQ.

7

8 SECURITIES INVESTOR PROTECTION CORPORATION

9 805 15th Str., N.W.

10 Suite 800

11 Washington, D.C. 20005

12

13 BY: KENNETH J. CAPUTO, ESQ.

14

15 HUGHES HUBBARD

16 Attorneys for SIPA Trustee

17 One Battery Park Plaza

18 New York, NY 10004

19

20 BY: JEFFREY S. MARGOLIN, ESQ.

21 CHRISTOPHER GARTMAN, ESQ.

22 JASON C. BENTON, ESQ.

23 JAMES B. KOBAK, JR., ESQ.

24

25

1 MILBANK, TWEED, HADLEY & MCCLOY, LLP  
2 Attorneys for (Unknown)  
3 One Chase Manhattan Plaza  
4 New York, NY 10005  
5

6 BY: GERARD UZZI, ESQ.  
7

8 WEINER BRODSKY KIDER, P.C.  
9 Attorneys for (Unknown)  
10

11 BY: TESSA K. SOMERS, ESQ.  
12

13 WOLLMUTH MAHER & DEUTSCH LLP  
14 Attorneys for LBHI  
15 500 Fifth Avenue  
16 New York, NY 10110  
17

18 BY: PAUL R. DEFILIPPO, ESQ.  
19

20 WOLLMUTH MAHER & DEUTSCH LLP  
21 Special Counsel for LBHI  
22 One Gateway Center  
23 Newark, NY 07102  
24

25 BY: JAMES N. LAWLOR, ESQ.



1 SHER TREMONTE, LLP  
2 Attorneys for (Unknown)  
3 80 Broad Street  
4 Suite 1301  
5 New York, NY 10004  
6

7 BY: JUSTIN M. SHER, ESQ.  
8

9 SIMPSON THACHER & BARTLETT, LP  
10 Attorneys for (Unknown)  
11 425 Lexington Avenue  
12 New York, NY 10017  
13

14 BY: ISAAC RETHY, ESQ.  
15 DAVID J. WOLL, ESQ.  
16

17 SPIZZ COHEN & SERCHUK, P.C.  
18 Attorneys for Security National Mortgage Co.  
19 425 Park Avenue  
20 New York, NY 10022  
21

22 BY: ARTHUR GOLDSTEIN, ESQ.  
23  
24  
25

1 GIBBONS, P.C.

2 Attorneys for (Unknown)

3 One Pennsylvania Plaza

4 37th Floor

5 New York, NY 10119

6

7 BY: DANIEL F. MARKHAM, ESQ.

8

9 ALSO PRESENT:

10

11 FRANK TOLIN, PRO SE

12

13 TELEPHONIC APPEARANCES:

14 GABRIEL GLAZER, PACHULSKI STANG ZIEHL & JONES

15 RAJ V. IYER, CANYON PARTNERS

16 HANNA MORIKAMI, NOMURA SECURITIES

17 AUSTIN SAYPOL, SILVERPOINT CAPITAL LP

18 HAROLD KIM, BLACKSTONE

19 JASON B. SANJANA, REORG RESEARCH

20 MATTHEW UNDERWOOD, HBK CAPITAL

21

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1 agenda and take the ADR motion before the Credencial matter.

2 MR. BENTON: I have no problem with that, Your  
3 Honor.

4 THE COURT: Is everyone here who has something to  
5 say about the ADR motion?

6 MR. DEFILIPPO: Debtor is ready, Your Honor.

7 THE COURT: Why don't we do that. All right. If  
8 you don't mind.

9 MR. BENTON: No, of course not.

10 MR. DEFILIPPO: Your Honor, may I approach?

11 THE COURT: Yes, sure.

12 (Pause)

13 THE COURT: How are you? Sure.

14 MR. DEFILIPPO: Good morning, Your Honor.

15 THE COURT: Good morning.

16 MR. DEFILIPPO: Paul DeFilippo for LBHI as plan  
17 administrator.

18 We are requesting the entry of an order  
19 establishing a mandatory but non-binding ADR procedure with  
20 respect to indemnification claims, we believe the estate,  
21 the debtor holds against approximately 2,500 to 3,000  
22 sellers with about 11,000 mortgage loans to the debtors or  
23 their affiliates, which were subsequently resold to Fannie  
24 Mae and Freddie Mac.

25 Over the last several days, we have attempted to

1 the same task, except red larger for the last five years and  
2 have handled it quite differently.

3 At least 1,110 lenders or thereabouts, and far  
4 more than 3,000 loans have been put forward by the debtors  
5 in courts all across the country, federal and state courts.

6 THE COURT: But I'm not -- this is not going to be  
7 a, you know, Moroccan bizarre where you're going to try to  
8 convince me that you've got a better idea. They're the  
9 fiduciary, they proposed a procedure that's worked  
10 structurally so to speak with respect to other large groups  
11 of claims in these cases.

12 So I want to hear about why what they've proposed  
13 I can't order, because it has worked and it's worked well,  
14 and now they've come back again promptly upon the accrual of  
15 these indemnification claims subsequent to the settlement  
16 with Fannie and Freddie.

17 So what is it about -- other than the fact that  
18 you don't want to do it, you would rather put them to the  
19 expense of filing the lawsuits than having to respond to the  
20 mediation notice and engage in what frankly is the more  
21 minimal activity involved with participating in the  
22 mediation program. And then if that doesn't work, if they  
23 elect to proceed, they will sue you.

24 But we're talking about very narrowly  
25 circumscribed, cost-efficient, nonburdensome procedures that

1 are tailored for this situation. And other than the fact  
2 that you just would rather them have to sue you, well,  
3 what's your objection?

4 MR. STEIN: Your Honor, they're not more minimal  
5 for the parties to which they're directed. Many of those  
6 parties are already facing claims, pending claims, current  
7 claims by Lehman Brothers Holdings, Inc. in other courts  
8 across the country. We now are faced with the specter of  
9 dealing with them on multiple fronts. This one being a  
10 particularly inconvenient one for my clients.

11 THE COURT: But so they would have to sue you  
12 again. In other words, I don't -- I can't get past the  
13 Lehman has a dispute with you, they make you aware of a  
14 dispute. Either they make you aware of the dispute because  
15 they file a complaint against you that requires you to  
16 answer or to move to dismiss it and/or engage in discovery,  
17 or they put you in this mediation program, they send you a  
18 notice, and you respond to the notice. Either by saying, my  
19 claim was settled, we think we shouldn't have to do this,  
20 we're going to write a letter to the Judge, et cetera.

21 Action/reaction. I just -- I'm sorry, and I don't  
22 mean to be difficult, I just don't understand the difference  
23 in those two worlds, other than the fact that you would  
24 rather they have to spend more money and launch more  
25 litigations because that's more burdensome on them, so

1     burden on them is a disincentive for them to come after you.  
2     But that's not the way it works.

3             MR. STEIN: Your Honor, we, the targets of the  
4     motion would rather spend less money ourselves, we're not  
5     focused on how many money Lehman is spending, we're focused  
6     on how much money we're spending.

7             THE COURT: And I understand that. And I just  
8     outlined for you why in the scenario in which the ADR is  
9     implemented, I'm not seeing the defendants, the punitive  
10    defendants having to spend a lot of money. I just -- I  
11    don't see it.

12            MR. STEIN: Okay. Well, let's talk about the  
13    process itself, and what it is they're advocating. While  
14    it's correct, as was suggested to you earlier that we're not  
15    here to discuss the substantive merits of the claim, I think  
16    one thing Your Honor does need to factor in in evaluating  
17    what's being requested here is kind of the track record of  
18    where we stand today.

19            These claims are almost certainly time barred,  
20    notwithstanding the fact that they're being presented to you  
21    as new indemnification claims that only accrued once they  
22    reached the settlement with Fannie or Freddie Mac.

23            When a particular variation of the statute of  
24    limitations argument has been made in cases brought by  
25    Lehman and adjudicated by federal and state courts thus far,

1 But among other things, there's also -- I believe  
2 there's one about, you know, this is a core matter, or this  
3 is a close nexus to the events that have happened.

4 THE COURT: Well, but the close nexus finding is  
5 part of the predicate for my having the ability to order the  
6 mediation. But that doesn't prejudice any arguments. For  
7 example, I've not really invited a lot of discussion about  
8 Stern versus Marshall, but to the extent that if and when  
9 you ever got to the merits of a claim, if you felt you had a  
10 Stern versus Marshall argument, it's totally this order will  
11 totally not prejudice your ability to make that argument  
12 then.

13 So that close nexus finding solely has to do with  
14 the ADR, has no bearing, afforded no weight ultimately if  
15 and when we would ever get to the merits of these suits, so  
16 you're protected in that regard.

17 MS. SOMERS: Okay. Well -- and that's hopeful  
18 too.

19 THE COURT: Okay.

20 MS. SOMERS: That's another section where it's  
21 ordered and affirmed that this is the case. And I believe  
22 that LBHI has committed to amending some of the language to  
23 explicitly preserve all rights, all defenses, all --

24 THE COURT: Sure.

25 MS. SOMERS: And so as long as we can get that in

1       there, I think --

2               THE COURT: Absolutely.

3               MS. SOMERS: -- that will help us along the road  
4       to agreeing to this.

5               THE COURT: Never -- that was never a question in  
6       my mind to the extent --

7               MS. SOMERS: So that's one of the -- sorry.

8               THE COURT: It was a lot of -- a couple of the  
9       objections raised that, and that's not on the table, you're  
10      not waiving any rights by participating in mediation.

11              MS. SOMERS: Well, and that was something that had  
12      been removed from prior motions of theirs. So seeing sort  
13      of this progression from motion-to-motion and then to ours  
14      where they've removed some of these safeguards, they've  
15      added in that we have to pay for the mediator. You know, it  
16      sort of -- it led us to a dark place --

17              THE COURT: Okay.

18              MS. SOMERS: -- where we questioned where this was  
19      going.

20              So it's certainly good to get some reassurances  
21      this morning from you. We didn't want to wait a month and  
22      then have found out subsequent --

23              THE COURT: Sure.

24              MS. SOMERS: -- that we should've known now.

25              THE COURT: Okay.